

**CITY OF TAKOMA PARK, MARYLAND
MINUTES
(ADOPTED 3/14/05)**

**CLOSED SESSION, PRESENTATION, PUBLIC HEARING, REGULAR MEETING &
WORKSESSION OF THE CITY COUNCIL**

Monday, September 27, 2004

Closed Session 9/27/04 - Motion by Austin-Lane; seconded by Barry. On September 20, 2004, the Council voted to convene in Closed Session on September 27, 2004 at 7:00 p.m. in the Municipal Building Conference Room to discuss a personnel matter related to former City Manager Rick Finn (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams). OFFICIALS PRESENT: Porter, Barry, Elrich, Seamens, Williams; STAFF/OTHERS PRESENT: Silber, Matthews, Carpenter. The Council discussed the status of the agreement with former City Manager Rick Finn. The City Attorney provided guidance for future discussions. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(ii)).

OFFICIALS PRESENT:

Mayor Porter
Councilmember Austin-Lane
Councilmember Barry
Councilmember Elrich
Councilmember Mizeur
Councilmember Seamens
Councilmember Williams

City Manager Matthews
Deputy City Manager Hobbs
Assistant City Clerk Carpenter
Community and Government Liaison Ludlow
Police Chief Creamer
Deputy Public Works Director Braithwaite

The Council convened at 7:39 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

COUNCIL COMMENTS:

Ms. Austin-Lane stated that she wanted to express her strong support for the Emergency Preparedness Committee. It is critical that we have that citizens component to the topic that is on people's minds right now. She also expressed support for the proposed committee to look at city/county services and the resident survey.

PRESENTATION

1. Update on the Community Center Construction Project.

Ms. Matthews reported that change order 12 has been executed. Staff has been having ongoing discussions with Molina, the apparent low bidder on the community plaza level. We have been

asking him to explore the option of holding the price for additional time. He has said it would cost \$80,000 to hold until December. We'll report back on October 11 as to whether we need to temporarily relocate staff, in case the upper level is not ready for occupancy. I have asked Venita to suggest to the contractor that the City purchase materials directly to avoid paying sales tax. The contractor has expressed interest in this option.

Mr. Williams reported on construction progress. Demolition has begun on the top floor of the building. The hole out front has gotten considerably bigger. It looks like they are rapidly heading back toward the community learning center area. Concrete work is being done. The brick work is proceeding. I initially had some concerns but after inspecting the corners, looks like they're going in nicely. I'm more hopeful than I have been in some time. I haven't seen any changes in the roof. I'm wondering if we need to provide any clarification on the skylight.

Ms. Matthews replied that they are proceeding as planned to cover the skylight.

Ms. Austin-Lane questioned the number of workers on site. How many are working and what is the activity level?

Ms. Matthews responded that Ms. George has been asked to pursue obtaining activity logs.

Ms. Seamens commented that the vending machines, which have been relocated to the main level, run out quickly.

Ms. Matthews said that she will address this with the contractor.

PUBLIC HEARING

2. Speed Hump(s) Request - Hickory Avenue

Tim Dowd , 28 Hickory Avenue, testified that Hickory Avenue is a two block street from Columbia to John Nevins Andrews School. We get two types of fast traffic: cut through traffic from New Hampshire Avenue and also traffic to and from the elementary school. Cars go very fast. Two years ago we surveyed the residents with several options: 1) making Hickory one way up the hill; 2) placing stop signs at Hickory and Montgomery; or 3) speed humps. There was a consensus to request speed humps. There are some vocal residents that are in the minority who do not want to see speed humps. We have taken this to the community association twice. Because Montgomery dead ends into Hickory, we went the extra mile to get the residents on Montgomery and Hickory to sign the petition. In my discussions with residents on Montgomery, they would like to see a stop sign at Montgomery and Hickory so they can get out onto Hickory.

Barbara Reisner, 7110 Woodland, spoke as coordinator of the steering committee of BF Gilbert Association. We have spoken twice about the speed humps. We publish and circulate an agenda so that residents are aware of what we will be discussing. No one came to the meetings to oppose the speed humps. The vote was overwhelmingly in favor of the speed humps.

3. 1st Reading Ordinance re: Speed Humps on Hickory Avenue

Mr. Williams moved the ordinance with the amendment that the location be identified as: Hickory Avenue between Columbia Avenue and Elm Avenue; second by Mr. Seamens.

Mr. Elrich asked if the requested stop sign would have to go through a petition process? We should be willing to address the comprehensive issue.

Ms. Porter responded that a petition process is not needed for a stop sign.

Mr. Williams noted that there were stop signs installed at the school (3-way), and where Elm gets to Pine and the unit block of Elm at Westmoreland. It has been a concern in that neighborhood. We worked to get consensus and then worked with the Police to have the stop signs installed.

Mr. Barry suggested that Council consider installing two speed humps, and adding a third if needed.

Mr. Williams said that the Director of Public Works and the City Engineer evaluate the street, and can add one later if we only put two in. The sense was three are needed, but that is not part of the ordinance.

Mr. Seamens commented that a request for additional stop signs needs input from Police and Public Works. This does not apply to state roads, where we do not have control over the placement of stop signs and traffic control devices.

Mr. Williams noted that one reason for the concern on Hickory Avenue about speed and speed humps is that they are the speed hump free route through the neighborhood.

Ordinance #2004-28 was adopted at first reading (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur).

ORDINANCE 2004-28 (attached)

4. Resolution re: Alignment of Purple Line.

Ms. Ludlow noted that on September 7 we had discussion of the route options. The resolution includes a request for the Montgomery County and Prince George's County Councils to direct planning staffs to begin a master plan process to address land use around potential stops. There should be community outreach and a community discussion to see what would be the right land use to have around the stations. The resolution re-expresses our support for light rail over bus transit.

Ms. Porter suggested a change in wording, that we strongly support stations in both the Long Branch area and at the Takoma/Langley Crossroads.

Motion by Elrich; second by Seamens.

Ms. Porter commented, the biggest concern among supporters is that it be light rail, and not bus rapid transit.

Mr. Barry noted that, now at the Crossroads, there is a crisis because there is not adequate shelter for those waiting for the busses. We might say we are in favor of light rail stations, with adequate shelters and space for safe loading of passengers. And Mr. Elrich had mentioned retail space in those stations.

Ms. Ludlow will come up with an extra bullet point for that in the resolution, and send it to Council for review.

Resolution 2004-46 was adopted (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur).

**RESOLUTION #2004-46
(attached)**

PUBLIC HEARING - RE-OPENED

2. Speed Hump(s) Request - Hickory Avenue

There was Council consensus to reopen the public hearing at 8:11 p.m., because several people arrived who wished to address the issue.

Larry Fischel, 6 Hickory Avenue, said he raised two children in the house, and four dogs, all without speed humps. They make emergency response times more difficult. The streets are not a playground for children or dogs. The kids like to play in the street and so the parents want speed humps. The problem of speeding is mainly at the start and end of school. I recommend that the Police Department set up speed traps and use radar instead.

Patricial Barril, 10 Hickory Ave., spoke against the installation of speed humps. Every yard has space for a play area. The children should not play in the street.

Linda Lyons, Columbia Ave., commented that when speed humps were installed on Columbia Avenue, the City didn't ask the neighborhood where they thought they should be, and now the speed hump is in an inefficient place.

Elizabeth Pavlowsky, 33 Hickory Ave., said she lived there for 38 years. Speed humps are inconvenient for those who live on and park on the street. Parking in winter is difficult with

speed humps. I think the main reason for the speed humps is to make it safe for children to play in the street. Streets are not a playground. Spring Park just a few blocks away. I hope that speed bumps are not installed. If they are, pay attention to where they are placed. They can create real problems for navigation.

Patrick Pluncket, 34 Hickory Ave., said he has lived here since 1985. Since there are new families with young kids, the road has become a playground, especially down at the lower end, with skateboard ramps, basketball hoops in the street. It's not right for kids to play in the street. We spend a lot of money on parks - they should be used a bit more. I share the view that it is more difficult for snow plows and emergency vehicles. All these things should be considered.

2nd Reading Ordinance re: Increase in Local Supplement to the State Homeowner Tax Credit

Motion by Elrich; second by Seamens.

Mr. Williams commented on the financial impact of the supplement. For low income people, (seniors, retirees, disability income) trying to stay in their houses, who have been here a long time, it gets harder to afford. The average impact is \$194 per property/doubled. Not all that huge an impact. We're limited by the law to 50% of the state amount. I would like to pass this, and look at various strategies to increase the effectiveness of what we can do in this area, to keep long time residents in the city, raising it to the 50% level, maybe. I would like to see the state increase the income limit. I want to see how we can enlarge the impact.

Ms. Porter commented, this only affects the taxes on the first \$150,000 of assessed valuation. For long time residents whose homes increased in value, property taxes may be their biggest expense. This may be something to raise as a state legislative item.

Mr. Elrich suggested looking at the idea of deferred taxes, where taxes are deferred and collected when the house is sold. The City would get the taxes eventually.

Ms. Porter said these are all good ideas. There would have to be a change in the state law because we are piggybacking on the state program.

Mr. Seamens said the City Newsletter should include information on how residents apply for this program.

Ordinance #2004-27 adopted unanimously (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur).

Ordinance #2004-27 (Attached)

1st Reading Ordinance re: Charron Construction Consulting Services.

Ms. Matthews commented on the background of the issue. The City entered into 18 month contract which expires December 31, 2004 for a \$43,000 not to exceed amount. Mr. Finn

authorized 25% extension. We have no authority to continue the contract. We issued an RFP. The respondents are listed on the cover sheet. Charron is competitive with the others. Because of their expertise, I recommend that we continue, with a not to exceed amount of 48,965.

Ms. Porter noted that where we are contracting for consulting services, we have the ability to select other than the lowest bidder.

Ms. Matthews said that the bids were difficult to evaluate. Most included hourly rates. Charron gave a not to exceed price.

Mr. Seamens asked if reviewing all plans for constructability and value was in the contract before.

Ms. Porter said it is important to note that they came on in the summer of 2003.

Ms. Matthews said there have been one or two instances where situations have arisen and their expertise has been helpful. They have been a good supplement to the staff.

Mr. Elrich said, the price seems greater than the original contract, for a period of time shorter, and a scope of work less likely to get us into trouble.

Ms. Matthews noted that during that time, there was an increase of 25% to the contract. We're into some difficult issues. We're not obligated to pay them all of the amount. I want to avoid coming back to you for additional money.

Mr. Williams commented that we might speculate that there are unresolved issues being dealt with.

Mr. Barry agreed we are better off having them than not having them.

Ms. Matthews said, there are some scheduling issues we are reviewing. Jeryl DePietro has been instrumental in assisting staff to work with issues.

Mr. Barry said he would like to add a clause to evaluate the contractor construction schedule, and provide weekly reports to the City Manager. I am concerned about the pace of the project. I would feel better if we can tell citizens on a weekly basis what can be accomplished and when.

Ms. Matthews said we can add the language. We will need to assess whether it would be an additional cost.

Ordinance 2004-29 passed unanimously at first reading (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur).

ORDINANCE #2004-29
(attached)

CONSENT AGENDA:

7A. Resolution effecting Appointments to the Public Safety Citizens Advisory Committee.

7B. Resolution effecting Appointments to the Ethics Commission.

7C. Resolution effecting Appointments to the Safe Roadways Committee.

Moved by Elrich; second by Williams.

The consent agenda was adopted unanimously (VOTING FOR: Porter, Barry, Elrich, Seamens, Williams; ABSENT: Austin-Lane, Mizeur).

**Resolution #2004-47 Effecting Appointments to the Public Safety Citizens Advisory
Committee
(Attached)**

**Resolution #2004-48 Effecting Appointments to the Ethics Commission
(Attached)**

**Resolution #2004-49 Effecting Appointments to the Safe Roadways Committee
(attached)**

BREAK

The Council recessed for a break at 8:38 p.m. and reconvened in Worksession at 8:55 p.m.

WORKSESSION

8. Emergency Management Committee.

Mr. Hobbs commented that the subject of the committee came up during the emergency management briefing. The Chief has had discussions with the PSCAC. Staff disagrees about the funding issues, but agrees about the committee.

Andy Kelemen, Chairman of the Public Safety Citizens Advisory Committee (PSCAC), highlighted tasks he believes are missing from the proposal. They had recommended that a half/time position be dedicated to this. Six months after the creation of the committee, an equipment budget should be submitted to Council. It was meant to be an action committee.

Ms. Porter commented that between our Police and Fire Department, we have a set of people whose existing responsibility is to respond to emergency situations. The piece of your plan that I was most interested in was the community preparedness education and the communications with the community.

Wolfgang Mergner said, citizens and staff together gives it a comprehensive approach. This committee looks for the connection between the public and staff. The testing part is missing from the proposal. Testing to be sure that procedures are valid and they work.

Mr. Kelemen said he has been involved with planning, administration, and fielding large equipment. Tests come in many different levels and flavors. "You're the only ones who could get here, show me where the emergency plan is." Go to the department to say - the emergency generators are not working. What do you do? I don't want to say that it was not our intent to push this out into the community, the intent was to work on two tracks--education and follow-through with what the federal government has started, training volunteers.

Ms. Porter commented that the community outreach is essential. I'm not sure what the difference in perception is. It seems like this committee would fit in.

Mr. Kelemen responded that leaving out the task of maintaining an active relationship with county and state volunteer organizations is a problem.

Mr. Seamens commented that there is a greater likelihood of catastrophic event than we have seen. We have a responsibility to prepare to the best extent to be able to help people to take care of themselves. It behooves us to prepare for these type of catastrophes, to do that - whether our staff or residents. I've heard staff say we're working with the county, and they will take charge. But we need residents to be educated, and plans to be in place, to care for ourselves and each other. I strongly support the development and formation of this committee.

Volunteers were willing to seek grants. Staff is charged to identify grants. I can't see why we want staff to maintain control. We need to work together. I would like to see some compromises. Reporting frequency we can agree on. I see resistance from the staff to volunteer involvement in some of their functions. We are behind in having our community prepared.

Ms. Porter noted that the City has been working on an emergency management plan. On Sept 11, the county formed a coordinating committee, and the city worked on that committee. This community was not in immediate danger. We participated in a committee to try and assess the situation. I agree that we need to get volunteers involved in this. Volunteers should not be the ones to obligate the city on grants. However, the emphasis should be in having volunteers assist the city in emergency preparedness. Two critical issues--communication in the community and the training of residents. I would like to move forward.

Mr. Williams commented, I agree with much of what Councilmember Seamens said. I think we have to remember that we can attempt to prepare for catastrophe, but in many ways the types of preparedness that is more helpful is for storms and power outages, because these things will happen. We won't ever be prepared for a 9-11 event, but we need to prepare for a broad spectrum of events.

Mr. Elrich said, it seems odd to talk about this as if we're going to do something in isolation from the surrounding communities. There needs to be a regional response to an event. This seems to be lacking in how it coordinates or involves volunteers. Grants can be identified,

brought to the City, then coordinate with the City about which ones we choose. I would like to see a larger volunteer component. The committee should not be testing departments, but it is appropriate to review the City plans. I lean toward regional coordination.

Ms. Porter noted, thinking about the lessons of [Hurricane] Isabel, we don't have a very good system for letting people in the community get information. We don't have a good telephone tree. A lot of people tried to get information by calling the Mayor. PEPCO says they have improved. One of the things we need to do is improve the lines of communication. There is a period of time we can't expect outside assistance. Letting people know how to do that is important, but the communication is critical. There is some of that already goes on. The core is there but we need to set up a system. The communications piece is something that we need the volunteers to do.

The discussion continued. Following the discussion, Council directed staff to work further with Mr. Kelemen and Mr. Mergner to further refine the proposal for the emergency preparedness committee.

9. City Manager's Proposal for Review of Tax Duplication Issues.

Ms. Matthews introduced the item. I've heard much about tax duplication and rising property values with the accompanying tax burden. The Council charged me to review the issue. The proposal before you is to form a citizens committee. Given the concern about this issue, I recommend a six-month charge, with a final report presented at the conclusion of their work. They may identify other issues to work on.

Lack of knowledge is a problem. They could identify areas where further research is needed. There might be a useful role for this committee in working on the resident survey. What level of service do residents want, and what do they want to pay for it? My suggestion is to appoint committee members in October. Suzanne Ludlow has a list of names of those who want to work on the citizen survey. There will need to be an initial education process. Bring in representatives from other municipalities to discuss how services are structured. One public forum, possibly more. Staff support will be provided by myself and Ms. Ludlow.

Mr. Elrich expressed support. He expressed concern about the timing and noted it has to fit with the MML Montgomery County schedule for looking at the issue. He suggested holding hearings in January instead of December.

Mr. Williams noted that input from MML group will be needed quickly because the County Executive's budget is released in March. Might there be different ways to tie this committee to that committee? We could have some representatives of our committee attend certain presentations, and have a broader understanding of some of the issues. I, too, was appalled at the unfairness of it all. I couldn't believe that many of the ways that the county determines the formulas are so random, and just not worthy of what a rebate formula should be. If the level quoted at that meeting was correct, \$6 million is the total, and Takoma Park is probably half of that. They could not provide the services provided by the municipalities for that amount. This argument will not be won by municipal elected officials, enough residents need to understand the

issues.

Ms. Porter described the work that the MML Montgomery County Chapter is doing on the issue. We may have as much at stake as anyone else because of the share that we receive. Gaithersburg and Rockville are similarly concerned. I also think this is a good proposal. The timing points are good ones. I suggest that we let the community talk to us about it, and come back in a couple of weeks with a final okay and appointment of committee members. I agree with the notion that this is such a complicated issue, that it would be useful to have a better understanding in the community about it.

Mr. Barry agreed. In order to get our fair share, we have to galvanize the support and organize the other municipalities. The committee would provide the evidentiary basis and the leadership support. I agree we need more time to come up with representatives. The group would have to work together. It needs to be a cohesive group, there from beginning to end.

Mr. Seamens commented that the proposal suggests that the Mayor would select the chair. We found it to be a good way to operate to let the committee members select the chair. That is one change I would make. I agree that the resident survey is a good idea to include with the committee's responsibility. Also, they should look at services provided by us that are also provided by Montgomery County, recreation services for example. Is rebate the correct term? Add an item to identify duplicated services. The schedule is overly optimistic or restrictive. I like the idea of videotaping the meetings. It will have the biggest impact on our community.

Mr. Mizeur noted that the City Manager has sensed that this was an issue we've been struggling with. You might search for the white paper that was being developed by the previous manager. Putting this committee in place now can only serve to work in tandem with what MML is doing. Drilling deeper into the fundamental question of which services we wish to provide and which ones the county should provide. I assume that the survey questions might include carefully questions framed to get at this issue. Please provide a schedule for when the citizen survey might go out.

Ms. Mizeur continued, will this include larger budget questions, making recommendations about what fiscal picture are we facing?

Mr. Elrich said it is misleading to say we're going to find out what services we duplicate. You won't discover anything we don't already know. Everything we've done was because of dissatisfaction with the county level of service. The city has taken on these things because residents have said we're not satisfied. Other jurisdictions have reached the same conclusion. Our tax base has more to do with what we pay in taxes than in the services we provide. We need to resist the temptation to look at this too simplistically. Tenants pay property taxes, but don't even realize it. Their perspective will be somewhat different than the homeowners, but half the residents are tenants. Their concerns are as important as everyone else.

After further discussion, Council agreed to schedule a resolution on October 11, after there has been some time to hear what the community says.

ADJOURNMENT

The Council adjourned for the evening at 10:11 p.m.